

1 responsible for all of HR, including benefits, payroll,  
2 and employee relations. And then three managers would  
3 have, of course, reported in to that person.

4 And I was the vice president of employee  
5 relations, which was responsible for recruitment and  
6 retention, responsible for employee relations, which  
7 basically addressed employee complaints, managed the  
8 progressive discipline program, trained our supervisors  
9 and managers at the locations on employment practices,  
10 you know, handbooks, discrimination, EEO, all of those  
11 terms that -- you know, some and more of those terms you  
12 brought up earlier about how to be a manager, really  
13 following employment laws and regs.

14 Q. I'm sorry to interrupt you. But what was  
15 the title of that position again?

16 A. That was when I was in employee relations,  
17 manager and VP of HR, both of those.

18 Q. And how long did you hold that position?

19 A. Corporate ER manager, I was into the  
20 position for six years prior to being promoted to the  
21 vice president of ER.

22 Q. Okay. When you were the vice president of  
23 ER, when was that?

24 A. January of '04.

1 discipline relate to that time period. I'm not looking  
2 for the current policies. I don't know if they are the  
3 same as they were in January of '04 or not. But my  
4 questions will have to do with the policies and  
5 procedures that were in place in January of '04.

6 First of all, what types of discipline were  
7 there back in January of '04 that were imposed by NCO?

8 A. Are you speaking in general terms?

9 Q. Yes.

10 A. Employees could be disciplined for several  
11 different employment categories --

12 Q. I'm sorry. I asked a confusing question. I  
13 not really looking for the types of things they could be  
14 disciplined for. I am asking for the types of  
15 discipline; for example, a written reprimand,  
16 suspension, that kind of thing.

17 A. Based on the severity of the violation or  
18 the frequency, they could have a discussion, you know, a  
19 discussion with their supervisor or manager or a verbal  
20 written warning, a written warning, a final warning.  
21 Suspension could be involved based on the severity, as  
22 well, and/or termination.

23 Q. Okay.

24 A. Retraining could be part of, you know, any

1 of that.

2 Q. So the least level of discipline would be  
3 just an oral discussion with the employee; is that  
4 right?

5 A. Yeah. And it would be very minor. You  
6 know, a note would typically be made to the employee's  
7 file, you know, if it needed to be referenced on a  
8 written, verbal warning.

9 Q. And that would involve matters that were not  
10 deemed very serious, is that right, relative to other  
11 types of problems?

12 A. That's correct.

13 Q. Then the next level after that would be --  
14 If you could, tell me again. I think there were three  
15 different levels of reprimands. What is the next level?

16 A. The next level would be a verbal written  
17 warning. So it is considered a verbal, but it is in  
18 writing.

19 Q. Okay. And would this be done up on a formal  
20 form that is made up for that purpose?

21 A. That is correct.

22 Q. Okay. And is that something that is called  
23 a job summary statement or something like that?

24 A. Yes. It is called a JDS, a job discussion

1 summary form.

2 Q. And those are used for things that are more  
3 serious than the one you talked about a minute ago, but  
4 not serious enough to warrant suspension or termination.  
5 Is that a fair statement?

6 A. I think it is fair that it is more -- you  
7 know, to let the employee know it is serious enough to  
8 document, any kind of documentation to a file. But it  
9 is also to keep them from getting to the next level.  
10 And based on the severity, our policy also provides  
11 for a provision -- you know, again, based on the  
12 seriousness -- that you could also skip a step of  
13 discipline. And again, the discipline could be made on  
14 the severity of the offense.

15 Q. What is the next level after you have this  
16 JDS form? What would be the next and more serious level  
17 of discipline?

18 A. After the verbal written warning, then an  
19 employee would progress. If they continued a violation,  
20 they would progress to a written warning.

21 Q. What form is that on?

22 A. The forms are identical.

23 Q. Okay.

24 A. It's the same form. There are different

1 check boxes for the different severities.

2 Q. Okay. And can you explain what the  
3 progressive discipline policy is, in general terms?

4 A. Yes. In general terms, it is when an  
5 employee violates a policy or procedure. And based on  
6 the severity of that violation, it could be a  
7 discussion, a verbal, written, final suspension, or a  
8 termination. And that would be documented. And in  
9 addition, you would skip levels, based on the severity,  
10 of course, of the event.

11 Q. Okay. So if there is something that is  
12 deemed serious, you might not start at the first level  
13 of discipline. You might start at the third, or you  
14 might even start with termination. Is that a fair  
15 statement?

16 A. That is a fair statement.

17 Q. Okay. Is there a different process if a  
18 manager is involved as the person who is to be  
19 disciplined?

20 A. Can I ask you to clarify? Are you asking if  
21 a manager is involved in the discipline of their  
22 employees?

23 Q. No. I mean the manager himself or herself  
24 is the one that is going to be disciplined. Do you have

1 the same process for doing that or, for example, do you  
2 follow progressive discipline when you discipline  
3 managers?

4 A. That's a good question. Most of our  
5 managers, supervisors and managers, are in positions  
6 where they really know the offenses. They know what  
7 they should and shouldn't do. They understand the rules  
8 and procedures, because they are enforcing them with  
9 their employees. So many times a manager could have a  
10 sped-up discipline, so to speak.

11 Q. Would it also be fair to say that if you  
12 have an experienced employee who has been around a long  
13 time and they violate a policy or procedure that is well  
14 known, that they might start at a higher level of  
15 discipline than would a less seasoned employee who might  
16 be not as aware of the policies?

17 A. I would like to agree with you on that.  
18 However, many times there are new procedures and  
19 policies. There are, you know, new guidelines to be  
20 implemented. So they may not have had that benefit,  
21 just because of their tenure with the company.

22 Q. So you would have to look at it on a  
23 case-by-case basis to determine what level of discipline  
24 would be appropriate, and you would probably look at the

1 any idea at all?

2 MR. ISRAEL: Objection; asked and answered.  
3 Tell him what you know.

4 THE WITNESS: I wish I could answer that for  
5 you, but I really don't know.

6 BY MR. HOMER:

7 Q. Do you have any sense of how many written  
8 reprimands there might be in a year at NCO Financial  
9 Systems, Inc.?

10 A. I do not. I apologize, but I just don't.

11 Q. Okay. When there is a written reprimand, it  
12 goes in the employee's personnel file. Is that a fair  
13 statement?

14 A. Correct.

15 Q. Is there a retention policy for those? Do  
16 you throw them out after a couple of years, or do they  
17 just stay there forever?

18 A. Well, they would go in the employee's file.  
19 And if the employee leaves, of course, they would  
20 obviously -- you know, we keep files for seven years on  
21 termed employees. Active employees, it would stay  
22 forever. But obviously, they would fall off, and they  
23 become obsolete after a certain time.

24 Q. Okay. What records would you keep if you

1 terminated an employee for cause? What sort of records  
2 do you have in the file?

3 A. Well, we have several different files that  
4 we recordkeep for employees. We have their personnel  
5 file. They could have a worker's comp file. They could  
6 have a family medical leave file. They could have an  
7 employee relations file.

8 Q. Okay. If you terminate someone for cause,  
9 where would the documentation justifying the termination  
10 be kept? Which one of those files?

11 A. The justification would be in the employee  
12 relations file.

13 Q. Okay. You are aware in this case that  
14 Valerie Hue's employment was terminated by NCO, correct?

15 A. I am.

16 Q. Were you involved personally in  
17 investigating any of the matters that led to her  
18 termination?

19 A. I was not involved in the investigation, but  
20 I did review the documents as they were presented to me.

21 Q. And was anybody else at HR involved in  
22 investigating the Hue matters that led to her  
23 termination?

24 A. No. Actually, Kathy Obenshain investigated



1 the majority of this. I believe Ted also talked to some  
2 employees. But Carol Murray, a member of my staff and  
3 who was a senior specialist at the time, reviewed all of  
4 the documents, you know, information that Kathy had  
5 presented, that Ted had presented, and then, you know,  
6 ensured that, again, when she presented this to me, that  
7 their recommendation was a valid recommendation.

8 Q. You said you reviewed documents. Which  
9 documents did you review?

10 A. I reviewed some of the employee statements,  
11 witness statements, and manager witness statements.

12 Q. The manager witness statements, as I  
13 understand it, were done in response to the charge of  
14 discrimination. Do you recall that?

15 A. I believe some of them were. I mean I  
16 recall seeing statements, you know, that NCO does not  
17 redep checks and rerun checks by the managers, that that  
18 is not their process, and employees, of course, on their  
19 witness statements from the Dover office.

20 Q. Okay. Did you review any documents, other  
21 than witness statements, in connection with the Valerie  
22 Hue investigation?

23 A. I don't recall reviewing. There may have  
24 been communication notes by, you know, Carol Murray from

1 my staff, that she and Kathy Obenshain had discussed.  
2 But other than that, I don't believe that there were  
3 really any documents. I don't know that Valerie ever  
4 denied the allegation.

5 Q. Okay. Do you know whether anybody at HR  
6 interviewed Valerie Hue about the events that were the  
7 basis for her termination?

8 A. No. That would not have been necessary.

9 Q. Okay. And why is that?

10 A. Well, it would be that situation that I was  
11 describing that, you know, at times the managers would  
12 look into things. And if we felt, after reviewing the  
13 documentation -- I mean this is a case where we had  
14 employees that had witness statements that said that  
15 Valerie had directed me to do this.

16 And there just would have been -- that was  
17 the whole crux, you know, that this rerunning the  
18 checks, the NSF checks and, you know, the DCIs -- these  
19 employees were admitting that Valerie were instructing  
20 them to do so. I mean that clearly in itself -- and  
21 there were several employees.

22 So normally if I get one or two employees, I  
23 would send my team or the general managers or the  
24 supervisors back to get more witness statements, because

1 I feel it is not enough. But in this case, there were  
2 plenty.

3 Q. Okay. Were you personally familiar with the  
4 policies that Valerie Hue was alleged to have violated?

5 A. I'm sorry. I'm not sure I understand the  
6 question.

7 Q. Let me back up a little bit. In this case  
8 you were talking about these witness statements. And  
9 some of the witness statements refer to the various  
10 check handling policies of NCO.

11 My question for you is: When you reviewed  
12 these statements, did you know what policies these were  
13 that they were talking about? Did you have any  
14 familiarity with the check handling policies?

15 A. No. I do not know if there is a check  
16 handling policy.

17 Q. So basically what you were doing when you  
18 did your review is to just rely on what the witness  
19 statements said. And you didn't do any investigative  
20 work about whether the policies were really followed or  
21 not. Is that a fair statement?

22 A. I would say it's fair. But I would add that  
23 I truly did not see that there was a need to continue to  
24 get any further information.

1 Q. Okay. Did anybody at the HR department do  
2 any investigation into the events other than to review  
3 the witness statements that were supplied in connection  
4 with the Valerie Hue matter?

5 A. Not that I'm aware of, other than Carol  
6 Murray communicating with Kathy Obenshain.

7 Q. And that was a discussion they had?

8 A. I believe they had several discussions.

9 Q. Okay. Do you know if there was any writing  
10 that reflects what they discussed?

11 A. I do not know that off of the top of my  
12 head. I apologize.

13 MR. ISRAEL: Jerry, I just told Ms. Sugg she  
14 doesn't have to apologize.

15 BY MR. HOMER:

16 Q. Yes. You don't have to apologize if you  
17 don't know everything about the case.

18 A. I felt like I wanted to.

19 Q. Excuse me just a second here. Do you know  
20 what records were kept in connection with the  
21 investigation of Valerie Hue that were related to the  
22 termination?

23 A. I am not aware, other than, you know, there  
24 were witness statements that came in. And I'm just not

1 Valerie admitted, as well, that she followed that  
2 process.

3 Q. What I'm really getting at here is not the  
4 substance of the decision so much as what process was  
5 followed. I think I understand that there was an  
6 investigation and some witness statements were gathered,  
7 and I understand you reviewed them.

8 A. It was recommended at that time then by  
9 Kathy Obenshain to HR -- actually, Kathy went out even  
10 and talked with Ms. Hue. And then it was recommended  
11 that Valerie be terminated. So that was recommended to  
12 HR. We reviewed everything, and we agreed that Valerie  
13 would be terminated.

14 Q. When you say we agreed, who is we?

15 A. Kathy would have had really the say and the  
16 recommendation. And the we would be, at that time,  
17 George Huyler and myself, based on the information Carol  
18 Murray provided, as well. And it was determined that we  
19 would proceed with the termination.

20 Q. Is Huyler spelled H-Y-L-E-R?

21 A. H-U-Y-L-E-R.

22 Q. Okay. Was there ever a discussion between  
23 yourself and Ted Fox about this?

24 A. I don't recall any discussion. I recall

1 talking with Kathy, maybe even more with Kathy once or  
2 twice. But I don't recall talking to Ted.

3 Q. Okay.

4 A. I don't know. I mean I may have, but I just  
5 don't recall.

6 Q. You said that Kathy Obenshain recommended  
7 that Valerie Hue's employment be terminated. Who was it  
8 that actually made the decision to terminate her or  
9 approved her recommendation?

10 A. It would have been Kathy. I mean it would  
11 have been really her decision to. And then any managers  
12 above her would be aware of it, just like I would go to  
13 George and basically let them know it's a good term.  
14 Then we would process it.

15 Q. So Kathy Obenshain made this recommendation.  
16 Was it a recommendation in writing?

17 A. I don't believe so. It could have been. I  
18 just don't have any file or information in front of me  
19 to reference right now. But I believe it was, you know,  
20 either -- I believe it was a phone call.

21 Q. Okay. Then HR reviewed it, yourself and  
22 Mr. Huyler and maybe someone else. I can't recall what  
23 you said. But what did you do after you reviewed it?  
24 Did you call back Kathy Obenshain and say go ahead or it

1 is okay with us? What was the next step for you?

2 A. Actually, I conducted the term over the  
3 phone with Carol Murray.

4 Q. Okay. So Kathy Obenshain made the  
5 recommendation. HR agreed to it, and then you just went  
6 ahead and did it. Did you tell Kathy Obenshain that you  
7 were going to call her?

8 A. Yes.

9 MR. ISRAEL: One second, Jerry. Is Valerie  
10 Hue with you?

11 MR. HOMER: No.

12 BY MR. HOMER:

13 Q. Did you tell Ted Fox that you were going to  
14 call Valerie Hue and terminate her?

15 A. I don't recall calling Ted at all. I would  
16 assume that if Ted knew, it was from Kathy.

17 Q. Okay. What was his involvement in the  
18 decision-making process, if you know?

19 A. Personally, I always understood that Kathy  
20 was the, you know, person that made the recommendation,  
21 and it was her decision after that fact finding of  
22 information.

23 Q. So Ted Fox didn't have any role in it, to  
24 your knowledge?

1           A.     Well, to the hierarchy, Kathy, in my  
2     opinion -- I do not know this -- that she would have  
3     obviously let him know of her decision, of her  
4     recommendation. I don't know that.

5           Q.     But you don't have any knowledge that Ted  
6     Fox played any role in the decision to terminate Valerie  
7     Hue; is that correct?

8           A.     That is correct.

9           Q.     Is there any other person, other than the  
10    ones you have already told me about that were in the HR  
11    department and Kathy Obenshain, that participated in any  
12    way in the decision-making, the decision to terminate  
13    Valerie Hue?

14          A.     No, there wasn't.

15          Q.     Okay. And you say you called Valerie Hue;  
16    is that right?

17          A.     That's correct.

18          Q.     Can you explain to me what the substance of  
19    the conversation was, the best you can remember it?

20          A.     Yeah. I basically, you know, told Valerie  
21    that obviously, you know, I was aware that she was  
22    suspended, based on, you know, the allegation of the  
23    violation of the check handling process and that from  
24    what we learned from the investigation, you know, that



1           A.     That's correct, a written response, or a  
2 mediation would be set up.

3           Q.     Okay. And in the case of a written  
4 response, does the HR department have any role in  
5 drafting or reviewing the response?

6           A.     Yes. We would -- it could be possible that  
7 we could go back and forth communicating during the  
8 creation of the document and/or the final document,  
9 reviewing it.

10          Q.     So in some cases the HR department would  
11 actually help draft some of the letter. Would the HR  
12 department review the final letter before it was sent to  
13 the agency?

14          A.     Yes. We have the ability to do that.

15          Q.     Would that be the typical way you did it?

16          A.     Yes. I think if there were any questions by  
17 any of the attorneys that were working on it, our  
18 documents -- you know, we have dealt with them for a  
19 long time. And we are pretty good on what we hand over.  
20 I will tell you that. So, you know, they usually get a  
21 good package.

22          Q.     Okay. And this final review that the HR  
23 department does of the response letter that the  
24 attorneys send to the agency that investigates the

1 charge of discrimination, is that done in part just to  
2 make sure that the statements in the position statement  
3 are accurate?

4 A. And I apologize. Did you ask is that why we  
5 review it?

6 Q. Is that one of the reasons you review the  
7 final letter before it went to the agency?

8 A. Yeah. I think that, you know, in a perfect  
9 world, we like to review every one. I think we do.  
10 But, you know, yeah, that is one of the reasons. It is  
11 a courtesy. It is to make sure everything is accurate.  
12 It is to make sure they didn't misinterpret any  
13 documents.

14 Q. Now, turning to the Valerie Hue case, after  
15 her charge of discrimination was filed, what was the  
16 process used to respond to the charge?

17 A. I can't -- Right now, off the top of my  
18 head, I apologize. I don't know. I am assuming a  
19 response was prepared. I don't know.

20 Q. Okay. Did you have any involvement in the  
21 response? Any personal involvement in the response?

22 A. I wouldn't have. You know, the team would  
23 have handed over the file, and it would have been the  
24 procedure as usual.

1 that this position statement was written, whether  
2 Valerie Hue received a bonus based on the  
3 end-of-the-month figures?

4 A. I can't remember that.

5 Q. Okay. Would that have been a relevant fact  
6 related to the investigation?

7 A. It would have been, and the thought would be  
8 that she would benefit financially from it. But  
9 regardless, she was instructing her employees to do  
10 this, as well. And it wouldn't have changed the  
11 decision, as far as her termination.

12 Q. What wouldn't have changed the decision?

13 A. If she did, indeed, benefit financially from  
14 this as a result, it wouldn't have changed the decision  
15 to terminate.

16 Q. So whether or not she received the bonus  
17 didn't really matter when it came to making the  
18 termination decision?

19 A. That is correct.

20 Q. Do you know why this was put in the position  
21 statement, this statement I just read to you?

22 A. I would imagine because the probability of  
23 that being accurate is true.

24 MR. ISRAEL: Is high.

1 THE WITNESS: Is high.

2 BY MR. HOMER:

3 Q. The probability of it being accurate?

4 A. Most probably, if her employees were doing  
5 this, she would benefit financially.

6 Q. How do you know that?

7 A. It's the way it works. I mean they would  
8 benefit, she would benefit.

9 Q. Well, it really isn't something that you had  
10 to speculate about, is it? I mean wouldn't it have been  
11 known in January of '04 or in June of '04 whether or not  
12 she did receive a bonus for the end-of-month figures?

13 MR. ISRAEL: Jerry, I don't understand the  
14 question. I mean we will stipulate that the information  
15 was known when the position was written. The witness  
16 has testified that she doesn't even remember reading the  
17 position statement, and she wasn't involved in preparing  
18 it.

19 MR. HOMER: Okay. If you are willing to  
20 stipulate the figures were known, that is fine.

21 MR. ISRAEL: I am not saying that. What I  
22 am willing to stipulate is the concept that she would  
23 benefit is what is known.

24 MR. HOMER: Well, you didn't say it that

1 commercial side.

2 Q. And he was a general collections manager in  
3 the Atlanta office at one time? Do you recall that?

4 A. I believe so.

5 Q. Do you recall that he was the Atlanta  
6 manager at the time that the Valerie Hue investigation  
7 was going on?

8 A. I don't know that. Matt has not been with  
9 the company for a while, so I just don't recall his term  
10 date.

11 Q. Okay. Do you recall that he was transferred  
12 to the Dover office after Valerie Hue was terminated?

13 A. I believe so. I mean I don't know, in fact,  
14 when. But I believe he worked in the Dover office. I  
15 just don't know if it was at that time off the top of my  
16 head.

17 MR. HOMER: Okay. Excuse me just a second.  
18 Do you mind if we take a short break? I would like to  
19 see if we have that letter that Elizabeth promised me  
20 today. We will take about a five-minute break.

21 MR. ISRAEL: Sure.

22 MR. HOMER: Okay. You are not allowed to  
23 discuss the substance of the deposition during the  
24 break, as you know.

1 THE WITNESS: Okay.

2 MR. HOMER: Thanks.

3 (Following a brief recess:)

4 BY MR. HOMER:

5 Q. I think we are almost done, just a couple of  
6 more questions. Ms. Sugg, did you ever have any  
7 discussion with Kathy Obenshain or anyone else at NCO  
8 about the possibility of imposing discipline on any  
9 other employee of NCO related to the audit that Dina  
10 Loft, also known as Dina Shaantiel, undertook in  
11 December of '03 and January of '04?

12 A. No. As far as, you know, the information  
13 from the fact findings, there were no other managers  
14 that showed that they had any violations with respect to  
15 following this procedure.

16 Q. I didn't limit my question to managers. I  
17 asked any other employee. And the question again was:  
18 Did you ever discuss the possibility of bringing some  
19 sort of disciplinary action against any other employee,  
20 including the collectors, as a result of that audit?

21 A. No, I did not.

22 MR. ISRAEL: Jerry, did Elizabeth Fite's  
23 letter get there?

24 MR. HOMER: Yes. That is why I'm not asking

Phillip Weaver

Page 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

VALERIE HUE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	Civil Action No.
NCO FINANCIAL SYSTEMS, INC.,	)	05-225-KAJ
a Delaware corporation,	)	
trading as NCO FINANCIAL	)	
COMMERCIAL SERVICES,	)	
	)	
Defendant.	)	

Telephone Deposition of PHILLIP WEAVER taken pursuant to notice at the law offices of Parkowski, Guerke & Swayze, P.A., 116 West Water Street, Dover, Delaware, beginning at 2:30 p.m. on Monday, March 13, 2006, before Robert Wayne Wilcox, Jr., Registered Professional Reporter and Notary Public.

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Registered Professional Reporters  
1400 French Street Wilmington, DE 19801  
(302) 571-0510

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Phillip Weaver

Page 5

1           A.    Because I was under the assumption that I  
2    would probably be subpoenaed if I didn't voluntarily  
3    agree.

4           Q.    Okay. What did you do to prepare for the  
5    deposition, if anything at all?

6           A.    No. The only thing that I really have done is  
7    I read through a -- what do I want to call this? I read  
8    through a copy of a transcription that was provided to me  
9    by David Israel.

10          Q.    Okay. Did that have to do with a telephone  
11    conversation?

12          A.    Yes.

13          Q.    Between yourself, Mr. Boudreau and Mr. Fox?

14          A.    That is correct.

15          Q.    Okay. Have you looked at any other documents  
16    relating to this matter?

17          A.    No, sir.

18                   MR. ISRAEL: Wait. Hold on.

19                   THE WITNESS: Yeah. Mr. Israel showed  
20    me a fax or a memorandum that was from me dated June 5 of  
21    2001 that was a memorandum to all collectors regarding  
22    redeposits.

23    BY MR. HOMER:

24          Q.    Okay. Anything else?



1 MR. ISRAEL: Jerry, you also got a copy,  
2 because I'm looking at it, of the unemployment  
3 compensation hearing that you attended where Mike Scher  
4 testified.

5 MR. HOMER: Yes.

6 MR. ISRAEL: I sent him that too.

7 MR. HOMER: All right.

8 MR. ISRAEL: Then there's a second  
9 memo from a Stephen Hallam to all collectors dated  
10 January 20th of 2004 that is noted regarding NSF  
11 redeposits.

12 BY MR. HOMER

13 Q. Are those all the documents that you've looked  
14 at?

15 A. Yes, sir, they are.

16 Q. Okay. Did you discuss the substance of the  
17 deposition with Mr. Israel before we've started here  
18 today?

19 A. Yes.

20 Q. How long did you do that? For how long did  
21 you discuss it with him?

22 A. Approximately an hour.

23 Q. Okay. Can you tell me why you were willing to  
24 do that, that is, spend time with Mr. Israel discussing

Phillip Weaver

Page 7

1 the deposition and reviewing the documents?

2 A. Because I've known him for several years and  
3 he asked me to.

4 Q. Okay. Is it fair to say you still feel a  
5 loyalty to NCO?

6 A. Sure.

7 Q. Okay. In your discussion with Mr. Israel, did  
8 you discuss the check handling policies that were used at  
9 NCO while you were there?

10 A. Yes.

11 Q. Did he explain to you what the issue in this  
12 case is about the check handling policies?

13 A. Yes.

14 Q. What is your understanding of that issue?

15 A. My understanding of the issue is that Valerie  
16 was terminated for improperly depositing NSF checks for a  
17 second time without verification that funds would be  
18 available.

19 Q. Okay. Did Mr. Israel discuss with you the  
20 policy that NCO has asserted was in place during the time  
21 that Ms. Hue has alleged to have done that? I'm talking  
22 about the policy related to check handling procedures.

23 A. Well, he asked me what my recollection of the  
24 policies were when I was in place as the general manager

Phillip Weaver

Page 10

1 I then opened a San Diego location in  
2 what probably would have been '95 or '96 and spent  
3 approximately one year at that location. And then I was  
4 brought to Louisiana at the time the company was sold to  
5 become vice president of collections over the whole  
6 organization.

7 Q. What year was that again?

8 A. '97.

9 Q. Okay.

10 A. Then, let's see --

11 MR. ISRAEL: Jerry, I told him to keep  
12 going.

13 THE WITNESS: Milliken & Michaels was  
14 acquired by NCO in, let me think here -- it would have  
15 been '99, May of '99. And -- let's see. I became the  
16 general manager for the commercial division at that time.  
17 And I stayed with NCO until December of 2003, at which  
18 point I left their employment.

19 In May of -- actually, March of 2004 I  
20 opened my own company called Revenue Assurance,  
21 A-s-s-u-r-a-n-c-e, Partners, LLC. And I am currently the  
22 CEO and president of Revenue Assurance Partners.

23 BY MR. HOMER:

24 Q. Okay. How many employees work for you now?

Phillip Weaver

Page 20

1 A. No.

2 Q. Okay. Do you know what, if any, say  
3 Mr. Savage would have had in any promotion that Mr. Fox  
4 received?

5 MR. ISRAEL: Asked and answered. Go  
6 ahead and tell him.

7 A. No.

8 Q. Did you ever go to dinner with Mr. Savage and  
9 Mr. Fox?

10 A. I've been to lunch with Mr. Savage. I don't  
11 believe I've been to lunch with both of them.

12 Q. Okay. Have you ever spent any time with  
13 Mr. Savage and Mr. Fox outside of business hours?

14 A. I have spent some time with Mr. Fox outside of  
15 business hours. I don't recall ever spending time with  
16 Mr. Savage outside of business hours.

17 Q. Okay. Can you relate to me in what settings  
18 you spent time with Mr. Fox outside of business hours?

19 MR. ISRAEL: Objection. Relevance. Go  
20 ahead and answer.

21 A. Yes. We both owned boats, and sometimes we  
22 would go out fishing together.

23 Q. Okay. How many times did you do that?

24 A. Two or three.

Phillip Weaver

Page 21

1 Q. Okay. Other than that, did you ever spend any  
2 time outside of business hours with Mr. Fox?

3 A. I think that we probably -- I probably saw him  
4 at one of the company Christmas parties. We -- our  
5 families did not go back and forth or -- you know, our  
6 kids were not of the same age. So we really didn't  
7 socialize.

8 Q. Okay. Anything other than those two things,  
9 the boat activity and the Christmas parties?

10 A. Yeah. We had a paint ball game, I think,  
11 once. Oh, man. I'm trying to remember. You know,  
12 that's all I can recall off the top of my head.

13 Q. Okay. Did you ever go golfing with him?

14 A. I don't golf.

15 Q. Okay.

16 A. So no.

17 Q. Do you know whether Mr. Fox and Mr. Savage  
18 ever spent time together outside of business hours?

19 A. I have no idea.

20 Q. Okay. Have you had any contact with either  
21 Mr. Savage or Mr. Fox since you left NCO in December of  
22 2003?

23 A. I had a telephone conversation with Mr. Fox  
24 approximately April of last year, which would have been

Phillip Weaver

Page 22

1 '05, to see if he wanted to go for opening day of snapper  
2 fishing season.

3 Q. Is that the only time you've been in contact  
4 with him since you've left NCO?

5 A. I think we may have talked on the phone on one  
6 other occasion regarding a client that was a mutual  
7 client between NCO and Revenue Assurance.

8 Q. Okay. I thought before you said you hadn't  
9 had any contact with NCO about any business matter since  
10 you left NCO.

11 A. Yeah.

12 Q. Is this the exception to that -- what you were  
13 saying before?

14 A. Well, no. I think that Ted and I just had a,  
15 you know, two-second conversation about does this happen  
16 to be a client in Metairie. Yeah. It's a client there.  
17 Okay. Well, we'll handling them here too. So just kind  
18 of just an FYI.

19 Q. Okay. That's the extent? That's the only  
20 contact you've had with NCO about any business matters  
21 since you left NCO?

22 A. Yes.

23 Q. Okay. Mr. Savage was terminated by NCO. Is  
24 that correct? His employment was terminated, I should

Phillip Weaver

Page 23

1 say. Is that correct?

2 A. That is correct.

3 Q. Do you know who made the decision to terminate  
4 his employment?

5 A. Well, myself, Mr. Fox and probably, I believe  
6 it was, Cherie Sugg in human resources made a group  
7 decision to terminate Mr. Savage.

8 Q. Okay. Why was he terminated?

9 A. He was terminated for improper verbiage  
10 directed towards fellow employees.

11 Q. Okay. Can you explain what the process was  
12 for, first of all, investigating what Mr. Savage may have  
13 done that was improper?

14 A. Specifically to that? Or are you talking what  
15 the process is for --

16 Q. No.

17 Specifically with respect to Mr. Savage,  
18 what was the process used to investigate what he did?

19 A. We received an incoming call from Rick  
20 Boudreau who indicated on that call that Mr. Savage had  
21 been heard utilizing terms that were inappropriate. At  
22 that point we contacted our human resources department to  
23 inform them of this.

24 Q. When you say "we," are you talking about

Phillip Weaver

Page 37

1 mind?

2 A. Absolutely.

3 Q. Okay. Do you know a woman named Dina  
4 Shaaltiel? She is also known as Dina Loft.

5 A. No, I don't.

6 Q. Okay. Were you aware in December of 2003 that  
7 an audit was being done of the collections division  
8 regarding NSF checks?

9 A. No.

10 Q. You know what NSF checks are. Correct?

11 A. Yes.

12 Q. Just for the record, what are they?

13 A. Nonsufficient funds.

14 Q. These are checks that are returned from the  
15 banks because there's not enough money in the account to  
16 cover them. Correct?

17 A. Or the account has been closed or the account  
18 is fraudulent.

19 Q. Okay.

20 A. Any number of reasons.

21 Q. Okay. I'm sorry. Did you say you were not  
22 aware of any audit being done in December of 2003?

23 A. Correct.

24 Q. Okay. While you were the general manager at



Phillip Weaver

Page 38

1 NCO, were there routine monthly audits that were  
2 undertaken of checks that were termed NSF?

3 A. When I was a general manager at NCO?

4 Q. Yes.

5 A. Not to my knowledge.

6 Q. Would you know if there were such audits being  
7 undertaken?

8 A. Apparently not, since I didn't know about this  
9 one.

10 Q. Okay. Well, what I'm asking you is: You said  
11 you were a hands-on general manager. But you don't know  
12 whether or not there were regular monthly audits  
13 undertaken?

14 MR. ISRAEL: Objection. Argumentative,  
15 asked and answered. Tell him what you know.

16 A. If these audits were driven by NCO corporate  
17 and they chose not to bring me into the loop, it really  
18 doesn't have anything to do with me being a hands-on  
19 manager to the people I was responsible for.

20 Q. Okay. Did you ever request that there be an  
21 audit done of NSF checks that had been resubmitted for  
22 payment?

23 A. Not to my knowledge. I don't recall ever  
24 doing that, no.

Phillip Weaver

Page 39

1 Q. Okay. Do you know anybody at NCO that did?

2 A. Not from my division, no.

3 Q. Okay. I take it you know Valerie Hue.

4 How long have you known Valerie?

5 A. Oh, gee. I don't know. A long time.

6 Probably ever since -- I think I probably met Valerie in  
7 the Milliken & Michaels days during one of the manager  
8 seminars that they used to have down in New Orleans.

9 Q. Okay. Were you involved in her promotion to  
10 general collection manager?

11 A. Yes.

12 Q. Who else was involved in that?

13 A. Gee. At the time I don't know if it was Kathy  
14 or Peter Buggeln. But, certainly, my senior vice  
15 president of collections was involved in it.

16 Q. What was involved in making the decision for  
17 that promotion? When someone is promoted to general  
18 collection manager, what criteria go into making the  
19 decision?

20 A. Well, certainly, a knowledge and an  
21 understanding of our business and how it operates, good  
22 people skills, good communication skills. Things like  
23 that.

24 Q. Who evaluates those criteria?

Phillip Weaver

Page 51

1 (Weaver Deposition Exhibit No. 6 was  
2 marked for identification.)

3 BY MR. HOMER:

4 Q. Can you explain what this memorandum is about?

5 A. I have no clue.

6 Q. Well, doesn't this set out a procedure for how  
7 closings are to be handled in the Dover office?

8 MR. ISRAEL: Objection. Leading.

9 A. I guess. But what they're describing here is  
10 totally foreign to any processes or procedures I've seen  
11 at NCO or Milliken & Michaels.

12 Q. Okay. Did different offices have different  
13 procedures for the collection practices?

14 A. No.

15 Q. So you think this procedure here is something  
16 that was not authorized by NCO corporate?

17 A. No. I think this procedure is managers not  
18 wanting to work their review files and assigning clerks  
19 to do it.

20 Q. I'm not sure I understand.

21 Could you explain that?

22 A. Yeah. They're -- these are all close codes  
23 that managers typically would go into their review file.  
24 And as people close accounts, they would have to review

Phillip Weaver

Page 65

1 marked for identification.)

2 BY MR. HOMER:

3 Q. Okay. Could you turn to the second page of  
4 the exhibit?

5 A. Yes.

6 Q. You see at the top where it says February 24,  
7 2003? That's the date that the e-mail is sent to  
8 commercial ops managers. This was an e-mail you sent.  
9 Correct?

10 A. Correct.

11 Q. Could you read the first paragraph of the  
12 memo?

13 A. "Effective immediately, the automatic  
14 redeposit of returned items from the bank will cease.  
15 This will prevent items from being returned after client  
16 remittance has been issued."

17 Q. Okay. When you say the "automatic redeposit  
18 of returned items," what were you referring to there?

19 A. When the company was owned by Milliken &  
20 Michaels, including the time when we were owned by HIG  
21 group, all of our checks that were deposited to the bank  
22 were only deposited once. Okay. They would come back to  
23 us then if they did not clear. And we would determine,  
24 you know, whether funds were available or not for them to

Phillip Weaver

Page 66

1 be redeposited.

2 When NCO acquired the organization and  
3 they moved the accounting process to Pennsylvania, they  
4 had a process in place with their bank for their consumer  
5 model whereby all checks were automatically redeposited.  
6 And we weren't notified of the debit until it didn't  
7 clear that second time. Therefore, we had funds that we  
8 had remitted to clients that -- where we thought the  
9 checks were cleared when in fact the checks hadn't  
10 cleared. They had just been automatically redeposited.

11 And because we deal in such large  
12 balances in the commercial model versus the -- you know,  
13 per account basis versus the relatively small dollars in  
14 the consumer model, that automatic redeposit of funds  
15 does not work for the commercial division.

16 Q. Okay.

17 A. So we ask them to get their bank to stop that.  
18 And they finally did.

19 Q. Just to get the terminology down here, can you  
20 tell me what "redipping" means?

21 A. Yeah. Redeposit.

22 Q. Okay. And NSF, I think we already mentioned,  
23 was a check that had been returned because there wasn't  
24 an account with money in it to pay for it. Correct?

1 A. Correct.

2 Q. So when you're talking here in this first  
3 paragraph, are you talking about redipping NSF checks?

4 A. No.

5 Q. What are you talking about?

6 A. The bank was automatically redepositing the  
7 check a second time before -- with no notification  
8 whatsoever to the depositor, which would be us. So  
9 without any human intervention, that check was being run  
10 or it would be run. If it came back, the bank just  
11 automatically re-ran it. It didn't even debit against  
12 our account until it came back for the second time.

13 Q. Well, you're saying the bank ran it.

14 But that was NCO's policy to have the  
15 bank run it again. Correct?

16 A. Or consumer, yes.

17 Q. Well, how long was this policy applied -- this  
18 memo -- this e-mail is directed to the commercial ops  
19 managers. Correct?

20 A. That's because I had that automatic redeposit  
21 changed because of the difference in the models.

22 Q. Right. I understand.

23 You changed it for the commercial  
24 division. Correct?

Phillip Weaver

Page 68

1 A. Correct.

2 Q. How long had this policy been in effect before  
3 you changed it. The one I'm talking about is the one  
4 that's stated on the second page of Exhibit --

5 A. A couple months.

6 Q. -- 13.

7 A couple of months?

8 A. Yes, sir.

9 Q. Well, when did NCO take over Milliken &  
10 Michaels?

11 A. The NCO takeover and the ultimate transferring  
12 of the accounting division were two different things.  
13 They took us over -- and it was a couple years before  
14 accounting actually got transferred to Pennsylvania,  
15 where -- which is where debtor payments were posted.

16 So, no, it was only a couple months from  
17 the time accounting got moved to Pennsylvania to where  
18 they were automatically redepositing at the bank to where  
19 I got it changed. At the most. I mean -- because it was  
20 a major issue for us. It was totally against everything  
21 we've always done.

22 Q. Okay. Because it was a major issue, you  
23 decided that you were going to put a written policy out  
24 on it. Is that what the second paragraph talks about,

Phillip Weaver

Page 69

1 the second paragraph of the same e-mail?

2 A. Sure.

3 Q. Okay. So you decided that you were going to  
4 end this policy of automatic redeposits and there was  
5 going to be a new policy which you were going to put in  
6 writing. Correct?

7 A. No. Again, there -- we had always had a  
8 legacy policy about the handling of NSF checks. When --  
9 no policies changed. Just where we deposited the bank --  
10 the funds in the bank was the only thing that changed  
11 which, in turn, created an automatic redeposit of those  
12 funds. So there was no change in policy.

13 Q. If there's no change in policy, why did you  
14 write the -- well, let's turn to the first page of the  
15 exhibit. Can you tell me what the purpose of your  
16 March 5, 2003 memo to the commercial ops managers was  
17 that's in this e-mail?

18 A. Because the accounting had changed from  
19 New Orleans or Metairie to Pennsylvania, I needed to tell  
20 people what method they would utilize, which is these  
21 e-mail addresses, to facilitate accounting processes.

22 Q. Yes.

23 These bullet items that are in the first  
24 page of Exhibit 13, don't they set out the procedure that